

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13292, of Assani S. Sanoussi, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the use provisions (Section 3105) to use all floors of the subject premises as a retail grocery and delicatessen in an R-5-A District at the premises 2488 Alabama Avenue, S.E., (Square 5844, Lot 812).

HEARING DATE: July 23, 1980
DECISION DATE: September 3, 1980

FINDINGS OF FACT:

1. The subject property is at the southeast corner of the intersection of Knox Place and Alabama Avenue, S.E. and is known as 2488 Alabama Avenue, S.E. It is in an R-5-A District.

2. The subject site is triangle in shape with a frontage of 158.13 feet on Knox Place and 212.56 feet on Alabama Avenue. The base of the triangle runs 135.88 feet. The site is improved with a one story plus basement and attic detached dwelling.

3. The property has been vacant for many years. The last Certificate of Occupancy was issued on November 11, 1969 for the retail sale of Christmas trees, back of building line lot. There has been no use of the property since the expiration on December 12, 1969 of the Certificate of Occupancy.

4. The applicant purchased the subject premises in May, 1979. He cleaned it out and boarded up the windows. It is the applicant's intention to use the premises as a retail grocery store and delicatessen.

5. There was testimony by the residents of the subject neighborhood that prior to its becoming vacant, the subject property was always used as a residence. In the subject 2400 block of Alabama Avenue there are three apartment houses, a church and two private residences and continuing on Alabama Avenue there is a preponderance of private residences. There is one commercial use at the premises 2478 Alabama Avenue which has been referred by the OPD to the office of the Zoning Administrator for operating a business without a Certificate of Occupancy.

6. In addition to the ANC, three neighboring residents appeared at the public hearing in opposition to the application. There was a petition of 119 signatures of neighboring residents submitted to the record in opposition to the application. A church directly across the street from the subject premises submitted to the record a letter in opposition. The applicant testified that he had a petition in support of his opposition. He was requested to submit it to the record. Such evidence has never been submitted.

7. Advisory Neighborhood Commission 8B opposed the application on the grounds that the property owners and residents in the immediate area of the subject property desired to retain the residential character of the neighborhood; that the proposed use would create traffic congestion, litter and congregation of people; that it would become an attraction to children from the nearby schools; that no survey was made to determine the needs of the neighborhood; and that the property value of home owners would be depressed if the proposed use was approved.

8. In addition to the concerns of the ANC the neighboring residents opposed the application on the additional grounds that the proposed use was not needed to serve the area residents since there was a Safeway and a Giant food store, a People's Drug Store and a liquor store within six blocks of the subject property. In addition, within two blocks of the subject property, the Clay Plaza center was being revitalized and could provide retail space that the applicant could rent for his proposed use.

9. The Board is required by statute to give great weight to the issues and concerns of the ANC. In addressing these concerns, in addition to the concerns of the residents, the Board finds that, except for the issue of depressed property value, it concurs with the grounds of opposition. As to depressed property value, the Board finds the record too incomplete to substantiate this issue.

10. The applicant presented no testimony or evidence demonstrating that the property was affected by any exceptional or extraordinary situation or condition. The applicant further demonstrated no hardship upon himself if the Zoning Regulations were strictly applied.

CONCLUSIONS OF LAW:


Based on the record, the Board concludes that the applicant is seeking a variance from the use provisions which requires a showing of a hardship upon the owner of property that is inherent in the property itself. The Board concludes that there is no hardship in the subject property. To the contrary, the subject property has a history of residential use for many years. There is nothing in the size or shape of the land that would preclude

it from being used for the purpose for which it is zoned. The Board further concludes that to grant the relief would cause substantial detriment to the public good and substantially impair the intent, purpose and integrity of the zone plan. Accordingly, it is ORDERED that the application is DENIED.

VOTE: 4-0 (Walter B. Lewis, Connie Fortune and Charles R. Norris to DENY; William F. McIntosh to DENY by PROXY; Leonard L. McCants not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: _____


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: _____

31 OCT 1980

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."